



THE LAW AND COMPUTERS
SUPPLEMENTARY MATERIAL - 1985

VOLUME I

Compiled by

Daniel G. Cooper

Thomas G. Heintzman

Richard B. Austin

Wendy M. Matheson

and

Richard J. Nathan

These materials have been compiled exclusively
for teaching purposes at the Faculty of Law,
University of Toronto and are not intended for
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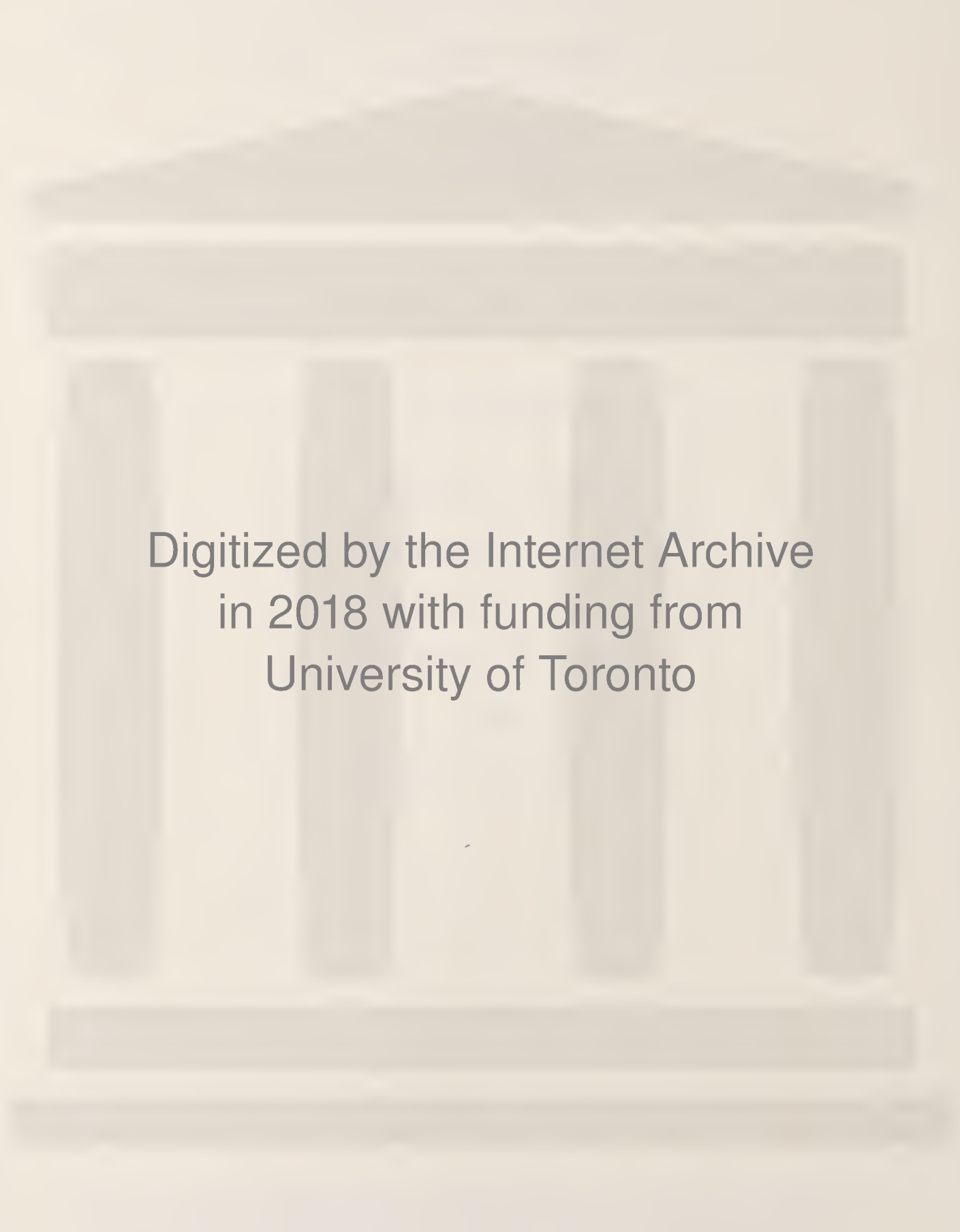
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THE LAW AND COMPUTERS

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PREFACE

The purpose of these materials is to provide a source book for a discussion of the substantive and procedural legal issues associated with the use of computers.

The material is divided into two parts: a core volume and a supplement. Each chapter of core material contains an overview of the major issues under discussion, and should provide students with an understanding of the key areas of legal concern. The supplement compliments each core chapter with a more detailed examination of the issues addressed, a survey of related problems and reference material (such as legislation or sample contracts).

The course begins with a brief description of computer technology followed by an introduction to the social and economic impacts of the Information Revolution and a survey of the participants in the data processing industry. This is followed by a discussion of the nature of information, leading into the material on intellectual property. Chapter VII completes the information debate with an examination of the privacy and freedom of information concerns raised by the computerized society.

From this general background the materials move to a more particular study of specific legal issues - methods for the distribution of hardware and software, issues in systems contracts and particular contracting situations, commercial issues and the applicability of tort principles.

Chapter XI explores the treatment by the law of evidence of computer-generated records and the procedural aspects of computer use in the litigation process. The criminal law is examined next, with the focus on its ability to cope with unauthorized access to computer systems and the taking and copying of software and data. The final Chapter surveys international considerations from trans-border data flow and copyright to joint venture agreements and technology transfer controls.

INTRODUCTION

The Law and Computers

1985

1. Nature of the Course

The focus of the course is on the legal issues associated with the use of computers and thus involves an examination of the intersection of computer technology and the traditional subject areas within the field of law. Hands on experience with computers is neither a formal nor a practical pre-requisite. The reading materials for the course provide an introduction to data processing technology that is intended to be sufficient for most purposes.

In addition to its impact upon substantive and procedural law the computer is making its presence felt in the legal environment in such practical applications as legal research and the automation of court functions. As well there is a growing body of literature on topics such as the computer's use in legal decision-making. These topics will not be addressed directly in this course although students may choose, if they wish, to write papers in these areas.

There will be weekly seminar meetings at which the readings for the course will be discussed. Each student, in addition to attending and participating at the seminars, will be expected to undertake a research project.

2. Substantial Research Paper

As a major paper course, a research paper of 25-40 typed pages is required. A list of possible topics will be provided. This list is not meant to be exhaustive however, and students are encouraged to seek approval of other topics in which they have a personal interest.

The paper is due on January 13, 1985.

It must be carefully typed, fully documented and foot-noted and be reasonably free of typographical errors as well as those of syntax, grammar and spelling.

It is to be noted that there is a paucity of scholarly Canadian writing on the legal incidents of computer use. While there is a wealth of excellent American material, and students should not hesitate to make use of its analysis, the substantive differences between Canadian and American law make distinctly Canadian articles desirable. It is hoped that the papers in this course will begin to cure the deficiencies in the literature.

3. Width of Approach

Students will be expected to acquire an appreciation of the issues raised by the computer in the traditional subject areas of the law. This can only be achieved on the basis of a grasp of the substantive principles of law applicable in each area, and it is anticipated that students will invest the time necessary to acquire this grounding. However it is not to be expected that this familiarity will be sufficient to permit

students to provide definitive answers to all the difficult questions associated with the use of computers. Indeed the emerging nature of many of the problems suggests that such solutions may not be presently available or perceivable. In these circumstances students are expected to develop an understanding of the sources of controversy, the possible means of resolution, and the likely consequences of the proffered solutions.

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